

MEMO ENDORSED

USDC SDNY
DOCUMENT
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DATE FILED: 3/29/2023

Application GRANTED. The Court interprets the instant filing as a request to withdraw Mr. Belle's purported Section 2255 petition. *See* Dkt. 1778. Mr. Belle may bring a new Section 2255 petition within the prescribed deadline as described in this Court's February 9, 2023 Order. *See* Dkt. 1779.

The Clerk of Court is respectfully directed to terminate the open motion at docket entry 1778; to close the civil case, 23-CV-836; and to mail a copy of this Endorsement to Mr. Belle and note the mailing on the docket.

SO ORDERED.



Date: 3/29/2023

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

United States District Court
Southern District of New York

Wendell Belle,

Movant,

- v -

United States OF America,

Respondent,

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23-CV-0836(VEC);

15-CR-0537-3(VEC);

Before U.S. District Judge,
Valerie E. Caproni,

RECORDED
SDNY PRO SE OFFICE
2023 MAR 26 PM 10:43

Pro-se Motion For Leave Respectfully Requesting
This Said Court To Completely Withdraw Proceeding
Civil No# 23-CV-0836(VEC) Because Its Premature

Now Comes Wendell Belle, through the assistance of another federal prisoner, at (USA) McGreary, he respectfully moves this Court to grant him this motion Pursuant to (Premature) based on the following reason(s).

1) As this Court already recognized in its Feb. 9, 2023, Order under "BACKGROUND" the Movant was transferred from state to federal custody on Nov. 23, 2022, that its supported by the record and while he was in state custody, he did not have not only any type of access to federal law, ("But also his appellate Counsel completely abandoned him. Appellate Counsel Steven Y. Yurawitz, not once mailed movant anything surrounding his direct appeal, not even a copy of his appeal brief, the issues counsel raised, the Appellee's Response Brief, nor the 2nd Cir. August 19, 2022, order affirming Movant's conviction under No# 21-544(2). The Movant did not have knowledge that his direct appeal was denied until he read it on this Court's Feb. 9, 2023, order (wow).")

2) Additionally, Mr. Yurawitz, did not inform the Movant that he has the right to file "en banc, or Certiorari" nor did counsel ever ~~make~~ mention to him "anything about a § 2255" nor its Proceed-
ings," which this alone is a serious violation of Movant's con-
stitutional rights, and a clear ineffectiveness of appellate Counsel,

3), when Movant had another Federal Prisoner draft A "Motion for Reconsideration", at the (MDC) in Brooklyn, NY, this other Federal Prisoner seem to not no Federal law either whatsoever. . . . Because this other Federal Prisoner should had known to file A motion to the 2nd Cir. Court, or write A letter to the 2nd Cir. Court Clerk and A letter to his Appellate Counsel requesting an update on his appeal Proceeding.

4) Either way, as this Court recognize already, the 2nd Cir. affirmed Movant's conviction on or about Nov. 17, 2022, to file Certiorari to the Supreme Court pursuant to Sup. Ct. R. 13.1. Movant's one year to file his timely § 2255 Motion will end on or about Nov. 17, 2023. See Unite States V. Brown, 797 Fed. Appx. 52 (2nd Cir. 2019) (citing Clay V. United States, 537 U.S. 522, 525 (2003)). Also see Davis V. United States, 643 Fed. Appx. 19 (2nd Cir. 2016) (citing Clay supra.). Disregard Brown supra.

5) Therefore, the movant clearly understands now, that he still has about 8 1/2 months still left to effectively file his § 2255 Motion before this court. See Davis supra. This Court must grant this motion because filing movant's § 2255 motion on or before April 9, 2023, its clearly to (Premature) and the 8 1/2 months that he still has left on the one year statute of limitation will completely hinder him in effectively raising all the issues necessary to be granted an ("Evidentiary Hearing") on those specific issues.

Date: 3/17/2023

Respectfully Submitted,
/s/ Wendell Belle,
Wendell Belle's Signature

Foot Note: _____

The Federal Penitentiary, McCreary, at P.O. Box 3000, Pine Knot, KY, 42635, where movant is being housed is constantly on 24/7 lockdown that has hinder him to access to A typewriter etc. . . . So he had no choice but to file this Pro Se Motion in Pen due to the seriousness of this court's Feb. 9, 2023, order.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
500 PEARL STREET
NEW YORK, NEW YORK 10007